

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 444**

BY SENATORS DEEDS, SMITH, STOVER, STUART,

WOELFEL, BARRETT, ROBERTS, AND TAKUBO

[Originating in the Committee on Health and Human

Resources; reported February 2, 2024]



1 A BILL to amend and reenact §33-15-21 of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §33-16-3i of said code; to amend and reenact §33-24-7e of said code;  
3 to amend and reenact §33-25-8d of said code; and to amend and reenact §33-25A-8d of  
4 said code, all relating to health insurance coverage for emergency services; providing  
5 coverage mandates for ground ambulance services when a prudent layperson acting  
6 reasonably would have believed that an emergency medical condition existed; providing  
7 that covered services include pre-hospital screening and stabilization of emergency  
8 conditions by an ambulance service; providing that air ambulance service is excluded from  
9 coverage; providing that coverage is subject to deductibles or copayment requirements of  
10 the policy, contract, or plan; and providing that coverage be provided if the patient declines  
11 to be transported against medical advice.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

### **§33-15-21. Coverage of emergency services.**

1 From July 1, 1998:

2 (a) Every insurer shall provide coverage for emergency medical services, including  
3 prehospital services, to the extent necessary to screen and to stabilize an emergency medical  
4 condition. The insurer shall not require prior authorization of the screening services if a prudent  
5 layperson acting reasonably would have believed that an emergency medical condition existed.  
6 Prior authorization of coverage shall not be required for stabilization if an emergency medical  
7 condition exists. Payment of claims for emergency services shall be based on the retrospective  
8 review of the presenting history and symptoms of the covered person.

9 (b) The coverage for prehospital screening and stabilization of an emergency medical  
10 condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of  
11 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
12 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance

13 service if the insured is transported to an emergency room of a facility provider or if the patient  
14 declines to be transported against medical advice. The coverage under this section is subject to  
15 deductibles or copayment requirements of the policy, contract, or plan.

16 ~~(b)~~ (c) An insurer that has given prior authorization for emergency services shall cover the  
17 services and shall not retract the authorization after the services have been provided unless the  
18 authorization was based on a material misrepresentation about the covered person's health  
19 condition made by the referring provider, the provider of the emergency services, or the covered  
20 person.

21 ~~(e)~~ (d) Coverage of emergency services shall be subject to coinsurance, copayments, and  
22 deductibles applicable under the health benefit plan.

23 ~~(d)~~ (e) The emergency department and the insurer shall make a good faith effort to  
24 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
25 services in order to avoid material deterioration of the covered person's condition.

26 ~~(e)~~ (f) As used in this section:

27 (1) "Emergency medical services" means those services required to screen for or treat an  
28 emergency medical condition until the condition is stabilized, including prehospital care;

29 (2) "Prudent layperson" means a person who is without medical training and who draws  
30 on his or her practical experience when making a decision regarding whether an emergency  
31 medical condition exists for which emergency treatment should be sought;

32 (3) "Emergency medical condition for the prudent layperson" means one that manifests  
33 itself by acute symptoms of sufficient severity, including severe pain, such that the person could  
34 reasonably expect the absence of immediate medical attention to result in serious jeopardy to the  
35 individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious  
36 impairment to bodily functions; or serious dysfunction of any bodily organ or part;

37 (4) "Stabilize" means with respect to an emergency medical condition, to provide medical  
38 treatment of the condition necessary to assure, with reasonable medical probability, that no

39 medical deterioration of the condition is likely to result from or occur during the transfer of the  
40 individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or  
41 otherwise delay the transportation required for a higher level of care than that possible at the  
42 treating facility;

43 (5) "Medical screening examination" means an appropriate examination within the  
44 capability of the hospital's emergency department, including ancillary services routinely available  
45 to the emergency department, to determine whether or not an emergency medical condition  
46 exists; and

47 (6) "Emergency medical condition" means a condition that manifests itself by acute  
48 symptoms of sufficient severity, including severe pain, such that the absence of immediate  
49 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
50 health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment  
51 to bodily functions, or serious dysfunction of any bodily part or organ.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS COVERAGE.**

**§33-16-3i. Coverage of emergency services.**

1 (a) Notwithstanding any provision of any policy, provision, contract, plan, or agreement to  
2 which this article applies, any entity regulated by this article shall provide as benefits to all  
3 subscribers and members coverage for emergency services. A policy, provision, contract, plan,  
4 or agreement may apply to emergency services the same deductibles, coinsurance, and other  
5 limitations as apply to other covered services: *Provided*, that preauthorization or precertification  
6 shall not be required.

7 (b) From July 1, 1998, the following provisions apply:

8 (1) Every insurer shall provide coverage for emergency medical services, including  
9 prehospital services, to the extent necessary to screen and to stabilize an emergency medical  
10 condition. The insurer shall not require prior authorization of the screening services if a prudent  
11 layperson acting reasonably would have believed that an emergency medical condition existed.

12 Prior authorization of coverage shall not be required for stabilization if an emergency medical  
13 condition exists. Payment of claims for emergency services shall be based on the retrospective  
14 review of the presenting history and symptoms of the covered person.

15 (2) The coverage for prehospital screening and stabilization of an emergency medical  
16 condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of  
17 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
18 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance  
19 service if the insured is transported to an emergency room of a facility provider or if the patient  
20 declines to be transported against medical advice. The coverage under this section is subject to  
21 deductibles or copayment requirements of the policy, contract, or plan.

22 ~~(2)~~ (3) An insurer that has given prior authorization for emergency services shall cover the  
23 services and shall not retract the authorization after the services have been provided unless the  
24 authorization was based on a material misrepresentation about the covered person's health  
25 condition made by the referring provider, the provider of the emergency services, or the covered  
26 person.

27 ~~(3)~~ (4) Coverage of emergency services shall be subject to coinsurance, copayments, and  
28 deductibles applicable under the health benefit plan.

29 ~~(4)~~ (5) The emergency department and the insurer shall make a good faith effort to  
30 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
31 services in order to avoid material deterioration of the covered person's condition.

32 ~~(5)~~ (6) As used in this section:

33 (A) "Emergency medical services" means those services required to screen for or treat an  
34 emergency medical condition until the condition is stabilized, including prehospital care;

35 (B) "Prudent layperson" means a person who is without medical training and who draws  
36 on his or her practical experience when making a decision regarding whether an emergency  
37 medical condition exists for which emergency treatment should be sought;

38 (C) "Emergency medical condition for the prudent layperson" means one that manifests  
39 itself by acute symptoms of sufficient severity, including severe pain, such that the person could  
40 reasonably expect the absence of immediate medical attention to result in serious jeopardy to the  
41 individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious  
42 impairment to bodily functions; or serious dysfunction of any bodily organ or part;

43 (D) "Stabilize" means with respect to an emergency medical condition, to provide medical  
44 treatment of the condition necessary to assure, with reasonable medical probability, that no  
45 medical deterioration of the condition is likely to result from or occur during the transfer of the  
46 individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or  
47 otherwise delay the transportation required for a higher level of care than that possible at the  
48 treating facility;

49 (E) "Medical screening examination" means an appropriate examination within the  
50 capability of the hospital's emergency department, including ancillary services routinely available  
51 to the emergency department, to determine whether or not an emergency medical condition  
52 exists; and

53 (F) "Emergency medical condition" means a condition that manifests itself by acute  
54 symptoms of sufficient severity, including severe pain, such that the absence of immediate  
55 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
56 health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment  
57 to bodily functions or serious dysfunction of any bodily part or organ.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE  
CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH  
SERVICE CORPORATIONS.**

**§33-24-7e. Coverage of emergency services.**

1 (a) Notwithstanding any provision of any policy, provision, contract, plan, or agreement to  
2 which this article applies, any entity regulated by this article shall provide as benefits to all

3 subscribers and members coverage for emergency services. A policy, provision, contract, plan,  
4 or agreement may apply to emergency services the same deductibles, coinsurance, and other  
5 limitations as apply to other covered services: *Provided*, That preauthorization or precertification  
6 shall not be required.

7 (b) From July 1, 1998, the following provisions apply:

8 (1) Every insurer shall provide coverage for emergency medical services, including  
9 prehospital services, to the extent necessary to screen and to stabilize an emergency medical  
10 condition. The insurer shall not require prior authorization of the screening services if a prudent  
11 layperson acting reasonably would have believed that an emergency medical condition existed.  
12 Prior authorization of coverage shall not be required for stabilization if an emergency medical  
13 condition exists. Payment of claims for emergency services shall be based on the retrospective  
14 review of the presenting history and symptoms of the covered person.

15 (2) The coverage for prehospital screening and stabilization of an emergency medical  
16 condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of  
17 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
18 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance  
19 service if the insured is transported to an emergency room of a facility provider or if the patient  
20 declines to be transported against medical advice. The coverage under this section is subject to  
21 deductibles or copayment requirements of the policy, contract, or plan.

22 ~~(2)~~ (3) An insurer that has given prior authorization for emergency services shall cover the  
23 services and shall not retract the authorization after the services have been provided unless the  
24 authorization was based on a material misrepresentation about the covered person's health  
25 condition made by the referring provider, the provider of the emergency services, or the covered  
26 person.

27 ~~(3)~~ (4) Coverage of emergency services shall be subject to coinsurance, copayments, and  
28 deductibles applicable under the health benefit plan.



29           ~~(4)~~ (5) The emergency department and the insurer shall make a good faith effort to  
30 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
31 services in order to avoid material deterioration of the covered person's condition.

32           ~~(5)~~ (6) As used in this section:

33           (A) "Emergency medical services" means those services required to screen for or treat an  
34 emergency medical condition until the condition is stabilized, including prehospital care;

35           (B) "Prudent layperson" means a person who is without medical training and who draws  
36 on his or her practical experience when making a decision regarding whether an emergency  
37 medical condition exists for which emergency treatment should be sought;

38           (C) "Emergency medical condition for the prudent layperson" means one that manifests  
39 itself by acute symptoms of sufficient severity, including severe pain, such that the person could  
40 reasonably expect the absence of immediate medical attention to result in serious jeopardy to the  
41 individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious  
42 impairment to bodily functions; or serious dysfunction of any bodily organ or part;

43           (D) "Stabilize" means with respect to an emergency medical condition, to provide medical  
44 treatment of the condition necessary to assure, with reasonable medical probability, that no  
45 medical deterioration of the condition is likely to result from or occur during the transfer of the  
46 individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or  
47 otherwise delay the transportation required for a higher level of care than that possible at the  
48 treating facility;

49           (E) "Medical screening examination" means an appropriate examination within the  
50 capability of the hospital's emergency department, including ancillary services routinely available  
51 to the emergency department, to determine whether or not an emergency medical condition  
52 exists; and

53           (F) "Emergency medical condition" means a condition that manifests itself by acute  
54 symptoms of sufficient severity, including severe pain, such that the absence of immediate

55 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
56 health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment  
57 to bodily functions, or serious dysfunction of any bodily part or organ.

**ARTICLE 25. HEALTH CARE CORPORATIONS.**

**§33-25-8d. Coverage of emergency services.**

1 (a) Notwithstanding any provision of any policy, provision, contract, plan, or agreement to  
2 which this article applies, any entity regulated by this article shall provide as benefits to all  
3 subscribers and members coverage for emergency services. A policy, provision, contract, plan,  
4 or agreement may apply to emergency services the same deductibles, coinsurance, and other  
5 limitations as apply to other covered services: *Provided*, That preauthorization or precertification  
6 shall not be required.

7 (b) From July 1, 1998, the following provisions apply:

8 (1) Every insurer shall provide coverage for emergency medical services, including  
9 prehospital services, to the extent necessary to screen and to stabilize an emergency medical  
10 condition. The insurer shall not require prior authorization of the screening services if a prudent  
11 layperson acting reasonably would have believed that an emergency medical condition existed.  
12 Prior authorization of coverage shall not be required for stabilization if an emergency medical  
13 condition exists. Payment of claims for emergency services shall be based on the retrospective  
14 review of the presenting history and symptoms of the covered person.

15 (2) The coverage for prehospital screening and stabilization of an emergency medical  
16 condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of  
17 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
18 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance  
19 service if the insured is transported to an emergency room of a facility provider or if the patient  
20 declines to be transported against medical advice. The coverage under this section is subject to  
21 deductibles or copayment requirements of the policy, contract, or plan.

22           ~~(2)~~ (3) An insurer that has given prior authorization for emergency services shall cover the  
23 services and shall not retract the authorization after the services have been provided unless the  
24 authorization was based on a material misrepresentation about the covered person's health  
25 condition made by the referring provider, the provider of the emergency services, or the covered  
26 person.

27           ~~(3)~~ (4) Coverage of emergency services shall be subject to coinsurance, copayments, and  
28 deductibles applicable under the health benefit plan.

29           ~~(4)~~ (5) The emergency department and the insurer shall make a good faith effort to  
30 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
31 services in order to avoid material deterioration of the covered person's condition.

32           ~~(5)~~ (6) As used in this section:

33           (A) "Emergency medical services" means those services required to screen for or treat an  
34 emergency medical condition until the condition is stabilized, including prehospital care;

35           (B) "Prudent layperson" means a person who is without medical training and who draws  
36 on his or her practical experience when making a decision regarding whether an emergency  
37 medical condition exists for which emergency treatment should be sought;

38           (C) "Emergency medical condition for the prudent layperson" means one that manifests  
39 itself by acute symptoms of sufficient severity, including severe pain, such that the person could  
40 reasonably expect the absence of immediate medical attention to result in serious jeopardy to the  
41 individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious  
42 impairment to bodily functions; or serious dysfunction of any bodily organ or part;

43           (D) "Stabilize" means with respect to an emergency medical condition, to provide medical  
44 treatment of the condition necessary to assure, with reasonable medical probability, that no  
45 medical deterioration of the condition is likely to result from or occur during the transfer of the  
46 individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or

47 otherwise delay the transportation required for a higher level of care than that possible at the  
48 treating facility;

49 (E) "Medical screening examination" means an appropriate examination within the  
50 capability of the hospital's emergency department, including ancillary services routinely available  
51 to the emergency department, to determine whether or not an emergency medical condition  
52 exists; and

53 (F) "Emergency medical condition" means a condition that manifests itself by acute  
54 symptoms of sufficient severity, including severe pain, such that the absence of immediate  
55 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
56 health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment  
57 to bodily functions or serious dysfunction of any bodily part or organ.

## **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

### **§33-25A-8d. Coverage of emergency services.**

1 (a) Notwithstanding any provision of any policy, provision, contract, plan, or agreement to  
2 which this article applies, any entity regulated by this article shall provide as benefits to all  
3 subscribers and members coverage for emergency services. A policy, provision, contract, plan,  
4 or agreement may apply to emergency services the same deductibles, coinsurance, and other  
5 limitations as apply to other covered services: *Provided*, That preauthorization or precertification  
6 shall not be required.

7 (b) From July 1, 1998, the following provisions apply:

8 (1) Every insurer shall provide coverage for emergency medical services, including  
9 prehospital services, to the extent necessary to screen and to stabilize an emergency medical  
10 condition. The insurer shall not require prior authorization of the screening services if a prudent  
11 layperson acting reasonably would have believed that an emergency medical condition existed.  
12 Prior authorization of coverage shall not be required for stabilization if an emergency medical

13 condition exists. Payment of claims for emergency services shall be based on the retrospective  
14 review of the presenting history and symptoms of the covered person.

15 (2) The coverage for prehospital screening and stabilization of an emergency medical  
16 condition shall include ambulance services provided under the provisions of §16-4C-1 et seq. of  
17 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
18 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance  
19 service if the insured is transported to an emergency room of a facility provider or if the patient  
20 declines to be transported against medical advice. The coverage under this section is subject to  
21 deductibles or copayment requirements of the policy, contract, or plan.

22 ~~(2)~~ (3) An insurer that has given prior authorization for emergency services shall cover the  
23 services and shall not retract the authorization after the services have been provided unless the  
24 authorization was based on a material misrepresentation about the covered person's health  
25 condition made by the referring provider, the provider of the emergency services, or the covered  
26 person.

27 ~~(3)~~ (4) Coverage of emergency services shall be subject to coinsurance, copayments, and  
28 deductibles applicable under the health benefit plan.

29 ~~(4)~~ (5) The emergency department and the insurer shall make a good faith effort to  
30 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
31 services in order to avoid material deterioration of the covered person's condition.

32 ~~(5)~~ (6) As used in this section:

33 (A) "Emergency medical services" means those services required to screen for or treat an  
34 emergency medical condition until the condition is stabilized, including prehospital care;

35 (B) "Prudent layperson" means a person who is without medical training and who draws  
36 on his or her practical experience when making a decision regarding whether an emergency  
37 medical condition exists for which emergency treatment should be sought;

38 (C) "Emergency medical condition for the prudent layperson" means one that manifests  
39 itself by acute symptoms of sufficient severity, including severe pain, such that the person could  
40 reasonably expect the absence of immediate medical attention to result in serious jeopardy to the  
41 individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious  
42 impairment to bodily functions; or serious dysfunction of any bodily organ or part;

43 (D) "Stabilize" means with respect to an emergency medical condition, to provide medical  
44 treatment of the condition necessary to assure, with reasonable medical probability, that no  
45 medical deterioration of the condition is likely to result from or occur during the transfer of the  
46 individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or  
47 otherwise delay the transportation required for a higher level of care than that possible at the  
48 treating facility;

49 (E) "Medical screening examination" means an appropriate examination within the  
50 capability of the hospital's emergency department, including ancillary services routinely available  
51 to the emergency department, to determine whether or not an emergency medical condition  
52 exists; and

53 (F) "Emergency medical condition" means a condition that manifests itself by acute  
54 symptoms of sufficient severity, including severe pain, such that the absence of immediate  
55 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
56 health or with respect to a pregnant woman, the health of the unborn child, serious impairment to  
57 bodily functions or serious dysfunction of any bodily part or organ.

58 ~~(6)~~ (7) Each insurer shall provide the enrolled member with a description of procedures to  
59 be followed by the member for emergency services, including the following:

60 (A) The appropriate use of emergency facilities;

61 (B) The appropriate use of any prehospital services provided by the health maintenance  
62 organization;

- 63           (C) Any potential responsibility of the member for payment for nonemergency services
- 64 rendered in an emergency facility;
- 65           (D) Any cost-sharing provisions for emergency services; and
- 66           (E) An explanation of the prudent layperson standard for emergency medical condition.